

RECEIVED
CENTRAL FAX CENTER

OCT 23 2006

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : James N. CURTI and Peter W. SALTER
Serial no. : 10/730,291
Filed : December 5, 2003
For : NASAL AND ORAL CANNULA BREATHING
DETECTION DEVICE
Group Art Unit : 1722
Examiner : Annette F. Dixon
Docket : SALTER P42AUSP2

The Commissioner for Patents
U.S. Patent & Trademark Office
P. O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Dear Sir:

This response is being filed in reply to the office action mailed September 22, 2006.
In that action, the Examiner requires restriction, under 35 U.S.C. § 121, between one of the
following groups of claims:

I Claims 14-33, drawn to method of forming a cannula, classified in class 264,
subclass 305.

II Claim 34, drawn to a cannula, classified in class 128, subclass 207.18.

In order to satisfy the restriction requirement, the Applicant provisionally elects with
traverse the invention disclosed in Group I (claims 14-33) and it is requested that, if the
restriction requirement is eventually made final, that without further action thereon, claim 34 be
retained in this application pending disposition of this case and for possible filing of a divisional
application(s).

By way of traverse, the Examiner asserts in the Election/Restriction requirement that the
nasal cannula product may be formed by another process other than as recited. However, the
Applicant points out that the specific steps of the claimed method are exactly embodied in the
product-by-process of claim 34 such that the nasal and oral cannula having a pair of nasal
prongs and a mouthpiece as recited in claim 34 can only be made by the same process as

RECEIVED
CENTRAL FAX CENTER

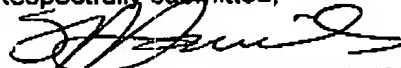
10/730,291

OCT 23 2006

recited in claim 14. Therefore, the apparatus of claim 34 cannot be made by a materially different process other than as recited in the elected claims 14-33, and therefore claim 34 should be prosecuted along with the elected claims in the same application.

In the event that there are any fee deficiencies or additional fees are payable, please charge the same or credit any overpayment to our Deposit Account (Account No. 04-0213).

Respectfully submitted,



Scott A. Daniels, Reg. No. 42,462

Customer No. 020210

Davis & Bujold, P.L.L.C.

112 Pleasant Street

Concord, NH 03301-2931

Telephone 603-226-7490

Facsimile 603-226-7499

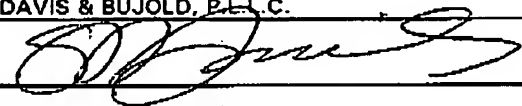
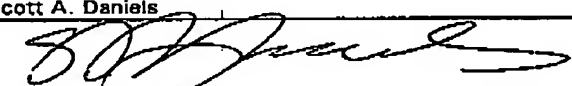
E-mail: patent@davisandbujold.com

PTO/SB/21 (12-97)

Approved for use through 9/30/00. OMB 0651-0031

Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i>	Application Number	10/730,291	RECEIVED CENTRAL FAX CENTER OCT 23 2006
	Filing Date	December 5, 2003	
	First Named Inventor	James N. CURTI and Peter W. SALTER	
	Group Art Unit	1722	
	Examiner Name	Annette F. Dixon	Fax: (571) 273-8300
Total No. of Pages in this Submission: 3	Attorney Docket Number	SALTER P42AUSP2	
ENCLOSURES (check all that apply)			
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee attached <input checked="" type="checkbox"/> Amendment/Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request (In Duplicate) <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Part/s Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Assignment papers (for an Application) <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition Routing Slip (PTO/SB/69) and Accompanying Petition (DELETED - no longer useful) <input type="checkbox"/> To Convert a Provisional Petition <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Small Entity Statement <input type="checkbox"/> Request for Refund	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Additional Enclosure(s) (please identify below):	
REMARKS			
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual Name	Scott A. Daniels DAVIS & BUJOLD, P.L.L.C.		Reg. No. 42,462 CUSTOMER NO. 020210
Signature			
Date	October 23, 2006		
CERTIFICATE OF TRANSMISSION			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO on <u>October 23, 2006</u>			
Type or printed name	Scott A. Daniels		
Signature	 Date: October 23, 2006 (tac)		